



# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Monthly Enforcement Report for actions during April 2008

DISTRIBUTED: May 9, 2008

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*This report has been prepared to satisfy a statutory obligation DEP has to inform the public of certain enforcement resolutions. This report does not include summaries of the hundreds of compliance related activities occurring every month because it is impractical to capture a sampling of those activities that would be representative of that work. Please contact Peter Carney at (207) 287-4305 or [Peter.J.Carney@Maine.gov](mailto:Peter.J.Carney@Maine.gov) for additional information regarding the activities listed in this report.*

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The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose civil penalties to deter similar actions in the future.

### **Administrative Consent Agreements Approved by the Board of Environmental Protection and Department of the Attorney General (party followed by location of violation):**

#### *Air:*

**Boralex Ashland LP, Ashland, Maine.** Boralex Ashland, LP ("Boralex") violated provisions of its Department-issued air emission license by exceeding emission limits for NOx (nitrogen oxide) and opacity. To resolve the violations, Boralex paid \$1,600.00 as a civil monetary penalty.

**Franklin Chrysler, Inc., Farmington, Maine.** Franklin Chrysler, Inc. ("Franklin") violated Maine's rule for *New Motor Vehicle Emission Standards* by selling a "non-California-Certified" vehicle in Maine. To resolve the violation, Franklin paid \$2,614.00 as a civil monetary penalty.

**WRCM, Inc. d/b/a Newcastle Chrysler Dodge Jeep, Newcastle, Maine.** WRCM, Inc. d/b/a Newcastle Chrysler Dodge Jeep ("WRCM") violated Maine's rule for *New Motor Vehicle Emission Standards* by selling two "non-California-Certified" vehicles in Maine. To resolve the violations, WRCM agreed to establish and implement a written work plan to avoid future repeat violations, and paid \$4,865.00 as a civil monetary penalty.

#### *Land:*

**Russell Cook and Susan Cook, Harrison, Maine.** Russell Cook and Susan Cook (hereinafter collectively "Cook") violated provisions of Maine's *Natural Resources Protection Act* by placing fill and disturbing soil adjacent to a great pond and in a freshwater wetland without first obtaining a permit from the Department. Specifically, fill had been placed in a thirty by thirty foot area immediately adjacent to Long Lake and into a freshwater wetland. Staff also observed that an access way to the lake was widened to seven to eight feet down to the fill area. Following Department involvement, Cook removed the fill, permanently stabilized exposed soil, and reduced the width of the access way path to six feet or less. To resolve the violations, Cook paid \$814.00 as a civil monetary penalty.

**Dora Highlands Development Corporation, Boothbay Harbor, Maine.** Dora Highlands Development Corporation ("Dora Highlands") violated provisions of Maine's *Stormwater Management Law* by constructing a project that includes one or more acres of disturbed area without first obtaining a permit from the Department, *Natural Resources Protection Act* by placing fill and disturbing soil in a freshwater wetland without first obtaining a permit from the Department, and *Erosion and Sedimentation Control Law* by filling, displacing, or exposing soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Dora Highlands created approximately 52,000 square feet of new impervious surface and altered approximately 7,400 square feet of wetland without first obtaining a permit from the Department during the construction of a residential subdivision. The altered wetland consisted of areas that had been filled as part of road construction as well as an area in woods that had been cut and grubbed. At the time of a Department inspection, erosion controls were installed at the site but had not been maintained, thereby, allowing sediment to leave the project site in several locations. Following Department involvement, Dora Highlands



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submitted a restoration plan to the Department to reduce the wetland impacts on the property to 1,720 square feet. To resolve the violations, Dora Highlands agreed to submit an after-the-fact permit application for construction of the residential subdivision and associated infrastructure and immediately comply with all terms and conditions of the after-the-fact permit, or, in the event that the after-the-fact application is wholly or in part denied, returned, withdrawn, or not submitted, submit a restoration plan to the Department to reduce the amount of impervious surface at the site to less than one acre. Dora Highlands paid \$6,186.00 as a civil monetary penalty.

**Phillip Gilpatrick d/b/a Gilpatrick Logging, North Berwick, Maine.** Phillip Gilpatrick d/b/a Gilpatrick Logging ("Gilpatrick") violated provisions of Maine's *Natural Resources Protection Act* by filling and dewatering a stream without first obtaining a permit from the Department, and *Erosion and Sedimentation Control Law* by exposing soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Gilpatrick constructed a ford crossing of a stream to perform logging operations. The ford was installed by placing logs perpendicular to the stream channel resulting in an impoundment of the stream and near total dewatering of the down-gradient channel. Erosion control measures were inadequate as exposed soils in the crossing area were not temporarily stabilized. Following Department involvement, Gilpatrick restored the stream channel and stream banks, and stabilized the crossing area to the satisfaction of Department staff. To resolve the violations, Gilpatrick paid \$2,076.00 as a civil monetary penalty.

**James Rutland, Lincolnville, Maine.** James Rutland ("Rutland") violated provisions of Maine's *Natural Resources Protection Act* by disturbing soil adjacent to a resource without first obtaining a permit from the Department, and *Erosion and Sedimentation Control Law* by displacing or exposing soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, four trees had been cut within seventy-five feet of Megunticook Lake and three stumps removed, and soil had been disturbed within within seventy-five feet of Megunticook Lake. No erosion controls were in place, with the exception of some erosion control mix which had been run over with heavy equipment and was not functioning as intended. Following Department involvement, Rutland submitted an after-the-fact permit by rule notification for the soil disturbance within seventy-five feet of the lake as a result of removing stumps, which was approved by the Department. Furthermore, Rutland submitted a restoration plan to replace trees that were removed adjacent to the lake. To resolve the violations, Rutland agreed to complete tree planting in accordance with the restoration plan, and paid \$952.00 as a civil monetary penalty.

**Paul Stiffler, St. Albans, Maine.** Paul Stiffler ("Stiffler") violated provisions of Maine's *Natural Resources Protection Act* by disturbing soil and vegetation adjacent to a great pond without first obtaining a permit from the Department, and *Erosion and Sedimentation Control Law* by displacing soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Stiffler cleared vegetation, removed stumps, and graded soil within five feet of the normal high water line of Big Indian Pond in an area approximately 3,750 square feet in size. A silt fence was installed between the earthwork and the pond, however, sediment was observed on the lakeward side of the silt fence. Following Department involvement, Stiffler seeded and mulched exposed soils, removed sediment between the silt fence and pond and mulched the area, and submitted a restoration plan to the Department which was approved. To resolve the violations, Stiffler agreed to implement the approved restoration plan, and paid \$1,500.00 as a civil monetary penalty.



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**Thibodeau Realty & Development Corporation and Vaughn Thibodeau and Sons, Inc., Bangor and Hermon, Maine.** Thibodeau Realty & Development Corporation and Vaughn Thibodeau and Sons, Inc. (hereinafter collectively "Thibodeau") violated provisions of Maine's *Site Location of Development Law*, and license issued thereunder, by expanding a permitted facility without prior approval from the Department, the Department's *Rules Concerning the Processing of Applications* by failing to apply for a license transfer within two weeks after a change of ownership, and *Natural Resources Protection Act* by placing fill in a freshwater wetland without first obtaining a permit from the Department. Specifically, a prior owner had acquired a permit from the Department under the *Site Location of Development Law* to construct an approximately 3.5 acre storage area for construction equipment on the Hermon property. Following its acquisition of the Hermon property, Thibodeau Realty & Development Corporation expanded the facility such that twelve acres of land had been stripped, graded, and not revegetated. Furthermore, approximately 18,000 square feet of freshwater wetland had been filled as part of the expansion. Thibodeau Realty & Development Corporation operates an equipment rental business that consists of approximately four acres that is stripped, graded, and not revegetated, and Vaughn Thibodeau and Sons, Inc. operates a concrete batch plant that consists of approximately eight acres of area that is stripped, graded, and not revegetated. To resolve the violations, Thibodeau agreed to submit a license transfer application for the original permit, submit after-the-fact license applications under the *Site Location of Development Law* and *Natural Resources Protection Act* for the expansion of the facility and wetland alteration, and immediately comply with all terms and conditions of the after-the-fact permits, or, in the event that the after-the-fact applications are wholly or in part denied, returned, withdrawn, or not submitted, submit a restoration plan to the Department to remove all unpermitted fill from the freshwater wetland and revegetate all unpermitted areas that have been stripped, graded, and not revegetated. Thibodeau paid \$13,565.00 as a civil monetary penalty.

**Fred Wheeler and W&S Wood Products, Inc. d/b/a Sherwood Wood Products, Manchester, Maine.** Fred Wheeler ("Wheeler") and W&S Wood Products, Inc. d/b/a Sherwood Wood Products ("W&S") violated provisions of Maine's *Natural Resources Protection Act* by disturbing soil adjacent to a freshwater wetland without first obtaining a permit from the Department, placing fill adjacent to a stream without first obtaining a permit from the Department, and removing vegetation and disturbing soil in a high or moderate value inland waterfowl and wading bird habitat without first obtaining a permit from the Department. Furthermore, Wheeler and W&S violated the *Protection and Improvement of Waters Law* by discharging soil to waters of the State without first obtaining a permit from the Department, and *Erosion and Sedimentation Control Law* by displacing or exposing soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, W&S entered into a contract to cut wood on Wheeler's property. An inspection by Department staff revealed that an area approximately one-half acre in size within inland waterfowl and wading bird habitat had been cut and soils disturbed. Some of the cutting and soil disturbance occurred within seventy-five feet of a freshwater wetland. Furthermore, an access road to the site crossed a stream and fill had been added to create a ford, but was not stabilized, thereby, allowing a discharge of soil to the stream. At the time of the inspection, no erosion controls were installed on the site. Following Department involvement, Wheeler submitted an after-the-fact permit by rule notification for the stream crossing which was approved by the Department, and a restoration plan to revegetate and stabilize cut portions of the property within seventy-five feet of the resource and in the areas mapped as inland waterfowl wading bird habitat. To resolve the violations, Wheeler agreed to complete all restoration in accordance with the restoration plan, and Wheeler and W&S paid \$4,320.00 as a civil monetary penalty.



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#### *Mining:*

**Vaughn Thibodeau and Sons, Inc., Stockton Springs, Maine.** Vaughn Thibodeau and Sons, Inc. ("Thibodeau") violated Maine's *Performance Standards for Excavations* by expanding a gravel pit by more than five acres since 1970 without first filing a Notice of Intent to Comply under the *Performance Standards for Excavations*. Department staff determined through the use of aerial photographs that Thibodeau's gravel pit was expanded by approximately 9.7 acres since 1996. Following Department involvement, Thibodeau submitted a Notice of Intent to Comply pursuant to the *Performance Standards for Excavations*, which was approved by the Department. To resolve the violation, Thibodeau agreed to pay past due annual licensing fees, and paid \$5,000.00 as a civil monetary penalty.